

**STATE OF MICHIGAN**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

**In the matter of**

**XXXXXX**

**Petitioner**

**File No. 120964-001**

**v**

**Blue Cross Blue Shield of Michigan**  
**Respondent**

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**Issued and entered**  
**this 24<sup>th</sup> day of October 2011**  
**by R. Kevin Clinton**  
**Commissioner**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On April 27, 2011, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on May 4, 2011.

The Commissioner notified Blue Cross Blue Shield of Michigan (BCBSM) of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on May 13, 2011.

Because medical issues were involved, the case was assigned to an independent medical review organization, The Maximus Center for Health Dispute Resolution (MCHDR), which provided its analysis and recommendation to the Commissioner on May 20, 2011.

**II. FACTUAL BACKGROUND**

The Petitioner's health care benefits are defined in the BCBSM *Group Conversion Comprehensive Health Care Benefit Certificate* (the certificate).

On June 25, 2010, the Petitioner was taken to the emergency room at XXXXX Hospital for emergency psychiatric attention due to an alleged suicide attempt. (A neighbor observed the

Petitioner in her yard with the electrical cord of a clothes iron wrapped around her neck. The neighbor called the police.)

BCBSM denied coverage, ruling that at the time of treatment the Petitioner did not have a medical emergency. The amount in dispute is \$691.00.

The Petitioner appealed BCBSM's decision. BCBSM held a managerial-level conference on January 31, 2011, and issued a final adverse determination dated March 24, 2011, upholding its denial.

### **III. ISSUE**

Did BCBSM correctly deny coverage for the emergency room services Petitioner received on June 25, 2010?

### **IV. ANALYSIS**

#### **Petitioner's Argument**

In her request for external review, the Petitioner wrote:

On June 25, 2010, the XXXXX Police Department forced me to seek emergency psychiatric attention at the local hospital, XXXXX Hospital, XXXXX emergency room. 911 had been called, due to what appeared to be an attempt to harm myself. Many stressful factors had just or recently occurred one hour before, on same date as service rendered at XXXXX Hospital, XXXXXXX on 6/25/2010. I was laid off from my job of 12 years at XXXXX Library. The library will be closing. Since 2/3/2010, I have been undergoing breast cancer treatment. Since I was demanded to attend the emergency room, by the local police, I feel this service should have at least been partially covered by Blue Cross Blue Shield. My premiums, individually billed, keep rising steadily.

#### **BCBSM's Argument**

In its March 24, 2011, final adverse determination BCBSM wrote:

You are covered by the *Group Conversion Comprehensive Health Care Benefit Certificate*. Page 3.8 (*Emergency Treatment*) explains that we pay for the initial exam and treatment of a "medical emergency or an accidental injury." Page 6.13 explains that a medical emergency is a life-threatening medical condition that occurs suddenly and unexpectedly. This condition could result in serious bodily harm, or threaten one's life, if treatment is not received immediately.

In this case, our medical consultant reviewed the emergency room report as received from XXXXX Hospital. Our medical consultant determined that the clinical presentation of the mood disturbance, low risk of suicide, no acute medical or surgical illness, and depressive appearance indicates a psychiatric disorder and not a medical emergency. Thus, the care could have been safely rendered in a lesser setting, such as in the office setting, and therefore, outpatient hospital/emergency care benefits are not warranted.

### Commissioner's Review

The Petitioner's claim for coverage of emergency services rests on two provisions of her BCBSM certificate of coverage. The first provision appears on page 3.8:

#### **Physician and Other Professional Provider Services That Are Payable**

##### **Emergency Treatment**

We pay for services of one or more physicians for the initial exam and treatment of a medical emergency or an accidental injury in the outpatient department of a hospital. Follow-up care is not considered emergency treatment.

The second provision is on page 6.13:

#### **The Language of Health Care**

##### **Medical Emergency**

A condition that occurs suddenly and unexpectedly. This condition could result in serious bodily harm or threaten life unless treated immediately. This is not a condition caused by an accidental injury.

The issue to be resolved in this review is whether the Petitioner's condition on June 25, 2010, constituted a medical emergency. BCBSM and its medical consultant concluded that she did not have a medical emergency. The medical reviewer engaged by the Commissioner concluded that the Petitioner's condition did present a medical emergency. Analysis begins with the medical records of the Petitioner's emergency room evaluation. She was examined by the emergency department medical staff, who recorded the following observations:

ASSESSMENT: . . . Patient states she is depressed because of losing her job today. . . .

CHIEF COMPLAINT: Patient presents for the evaluation of depression, stress. . . .

TIME COURSE: Onset of symptoms reported as gradual. Onset was November 2009, Complaint is worse, Complaint is intermittent.

SEVERITY: Maximum severity is severe. Currently symptoms are moderate.

NOTES: Pt. under significant stress since 11/09 when she underwent hysterectomy. In March she was [diagnosed] with [breast cancer]. Today she rec'd notice that she will be laid off as of 6/29/10. On returning home she took the iron and walked outside. Her mother was there and walked immediately out after her. She was witnessed by bystanders to have the cord transiently around her neck and someone called 911. She denies any suicidal ideation at the time, currently, or [history of] same. Her mother never felt that the pt. was a threat to herself. The police arrived and they instructed pt to present to the [emergency department].

There are two competing medical opinions on the question of whether the Petitioner's condition constituted a medical emergency as that term is defined in the certificate of coverage. The BCBSM consultant, after reviewing the submitted medical records, concluded that no medical emergency existed. The MCHDR reviewer stated that an emergency evaluation was warranted. The Commissioner must accept one of these competing analyses and then decide whether the BCBSM denial of coverage should be upheld or reversed. In a decision to uphold or reverse an adverse determination, the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b).

The Commissioner concludes that the opinion of the BCBSM medical consultant more closely matches the recorded observations of the hospital emergency department staff who evaluated the Petitioner. The Commissioner's conclusion is based on the significantly larger body of observations, made at the time the Petitioner arrived at the hospital, that indicate the Petitioner was not suicidal. In contrast, the MCHDR analysis is based on a more general belief that "the determination of acute suicidality and the risk that a patient poses to his or her life requires an emergency medical evaluation." This analysis is not grounded in the specific facts of the Petitioner's case, including the fact that the Petitioner at all times denied being suicidal. (She reported that her actions were simply a matter of "releasing the aggression/tension she was feeling." See the hospital notes of social worker XXXXX.)

The Petitioner's argument in this appeal is based on a different assertion – that BCBSM should provide coverage because the Petitioner was told by the police that she must go to the emergency room. However, a police officer cannot create health insurance benefits. Coverage is dependent on the language of the insurance contract. The BCBSM *Group Conversion* certificate provides that emergency care is only covered when a medical emergency or accidental injury is involved. Based on the BCBSM medical consultant's conclusion that a medical emergency did not exist, the Commissioner finds that the Petitioner's emergency department treatment at XXXXX Hospital is not a covered benefit.

**V. ORDER**

The Commissioner upholds Blue Cross Blue Shield of Michigan's March 24, 2011, final adverse determination. BCBSM is not required to provide coverage for the emergency room services that Petitioner received on June 25, 2010.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.